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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,494	11/28/2000	Harry C. Sweere	1333.001US1	6970

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EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/724,494	SWEERE ET AL.
	Examiner Gwendolyn Baxter	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 May 2002.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-49 is/are pending in the application.  
 4a) Of the above claim(s) 34,35,48 and 49 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-33 and 36-47 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4,6,10</u> .	6) <input type="checkbox"/> Other: _____

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This is the second office action for serial number 09/724,494, Monitor Support System, filed on November 28, 2000.

***Election/Restriction***

Acknowledgment is made of applicant's provision election of the species identified as Group 1. Claims 1-33 and 36-47 are said to read on the provisionally elected species.

***Drawings***

Acknowledgment is made of the formal drawing submitted February 11, 2002. However, no drawings have been provided for figure descriptions 3C and 3D. Additionally, no description has been provided for figure 9C.

***Information Disclosure Statement***

The information disclosure statements filed December 17, 2001, February 11, 2002 and May 8, 2002 have been placed in the application file, and the information referred to therein has been considered.

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***Claim Rejections - 35 USC § 112***

Claims 4-7, 9-11, 13, 19-33, 36-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4-7, 9-11 and 13 provides for the use of supporting a monitor which is movable along a path of motion, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

In claim 19, line 1, “the monitor” lacks proper antecedent basis. The language should read --a monitor--. Similar problem occurs in claims 22, 32, 36, 41 and 45.

In claim 22, line 14, “the cam surface profile” lacks proper antecedent basis.

In claim 23, line 2 and 3, “the at least one cam follower” lacks proper antecedent basis.

In claim 25, line 2, “the axis of motion” lacks proper antecedent basis.

In claim 31, line 2, “it should be replaced with the proper noun to avoid any ambiguity, thus distinctly claiming and particularly pointing out the subject matter.

In claim 36, line 7, “the axis of motion” lacks proper antecedent basis.

In claim 39, line 6, “the direction” and “the axis of motion” lack proper antecedent basis.

In claim 44, lines 1 and 2, “the cam follower guide angle” lacks proper antecedent basis.

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***Claim Rejections - 35 USC § 101***

Claims 4-7, 9-11, and 13 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 8, 14-17, 19, 20, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,616,218 to Bailey et al., hereinafter Bailey. The present invention reads on Bailey as follows: Bailey discloses a monitor support mechanism comprising an energy storage member (18) and a cam or a cam follower guide (22, 30). The energy storage member and the cam are cooperatively positioned. As the energy storage member moves along a path relative to the cam, the cam displaces the energy member and thereby changes a force of the energy storage member. The cam converts the force of the energy storage member into a substantially constant supporting force on the monitor. The supporting force is parallel to the

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path. The cam displaces the energy storage member at a different rate than a rate of travel by the energy storage member along the path. The cam is oriented so that the cam runs in a direction generally alongside the path of motion. The method claims are inherent, since the structure is critical to the steps being performed. A cam follower (30) rides along the cam surface (26). The cam surface has a generally vertical orientation.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 12, 18, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey. Bailey teaches a first section, a truck (16), a cam follower (24), and energy storage member (18). The first section having a groove (26) and a cam (22) integral therewith in its operative state. The truck is movable within the groove along a path of motion. The cam follower is coupled to the truck. The energy storage member applies a force to the cam follower which forces the cam follower against the cam. The force is in a direction which is nonparallel to the path of motion. The monitor is coupled to the truck and the energy storage member applies a varying force on the cam follower as the truck moves along the path of motion. The cam converting the varying force into a substantially constant supporting force on the monitor.

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However, Bailey fails to teach the components of the monitor support mechanism being formed of a non-metallic material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made components as taught by Bailey from a non-metallic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claims 2, 12 and 18, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modified the orientation of the energy storage member as taught by Bailey to be nonparallel orientation, since it has been held that rearranging parts of an invention involves only routine skill in the art and since this orientation would increase the force applied to the monitor. *In re Japikse*, 86 USPQ 70.

#### ***Allowable Subject Matter***

Claims 22-33 and 36-40 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 21, 42-44, 46 and 47 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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***Conclusion***

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Gunn 3,534,935; Helgeland 4,690,362; West 5,549,264; Bang 6,411,271B1 and Agata 6,504,707B2 teach monitor supporting mechanisms.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is (703) 308-0702. The examiner can normally be reached Monday-Friday from 8:30 A.M. to 5:00 P.M. Eastern Time Zone.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703) 305-3597.

gb.  
February 10, 2003

*Gwendolyn Baxter*  
**GWENDOLYN BAXTER**  
**PATENT EXAMINER**  
*Art Unit 3632*